

New Exemptions for Environmental Review of Feedlots  
From 2003 Legislative Session  
Effective July 1, 2003

**Background**

The 2003 Legislature added new exemptions from environmental review for feedlots that are not located in sensitive areas. Specifically, new animal feedlots and expansions of existing feedlots with a total cumulative capacity of less than 1,000 animal units can qualify to be exempt from environmental review. To qualify for an exemption, a proposer must make a written commitment that the animal feedlot will be designed, constructed and operated in full compliance with the MPCA Feedlot Rules and a public meeting for citizen input must be held prior to permit issuance.

Prior to July 1, 2003, a petition could be filed with the Environmental Quality Board (EQB) requesting environmental review for the construction of a new feedlot greater than or equal to 300 animal units, or the expansion of a feedlot by 100 or more animal units, for feedlots located outside of “sensitive areas” as defined in Minnesota Rules Part 4410.4300, subpart 29B. (For feedlots located in a sensitive area, the petition threshold for both construction and expansion is 50 total animal units.) No changes were made by the Legislature to the mandatory EAW categories (Minnesota Rules Part 4410.4300, subpart 29) or to the types of projects currently exempted from environmental review (Minnesota Rules Part 4410.4600, subpart 19).

To see the EQB environmental review program rules visit the Revisor of Statutes website, [www.leg.state.mn.us/leg/statutes.asp](http://www.leg.state.mn.us/leg/statutes.asp), and look for chapter 4410 under Minnesota Rules. Copies of the legislation can be found at the same Revisor of Statutes web site under the section on Session Laws, 2003 regular session, look for chapter 128, article 3, section 40.

**Changes affecting the petition process**

The 2003 Legislature exempted certain feedlots outside sensitive areas from all environmental review under Minnesota Statutes, section 116D.04, subdivision 2a, provided the following conditions are met:

1. The new feedlot has a capacity less than 1000 animal units, or the feedlot has a total capacity of less than 1000 animal units after expansion; and
2. The application for the animal feedlot includes a written commitment by the proposer to design, construct and operate the facility in full compliance with Minnesota Pollution Control Agency (MPCA) feedlot rules; and
3. The county board holds a public meeting for citizen input at least ten business days before the MPCA or county issues a feedlot permit, unless another public meeting for citizen input has been held with regard to the feedlot to be permitted.

The legislative changes became effective July 1, 2003.

**Written commitment from feedlot applicant**

The MPCA has revised the feedlot permit application form to incorporate additional language that will satisfy the commitment requirement established by the Legislature

**Public meeting for citizen input**

The purpose of the public meeting included in the conditions for exemption is to solicit citizen input for the permitting authority about the feedlot project. The information gathered can be considered by the MPCA or the county in making their decisions regarding the feedlot permit. The Legislature established this requirement to ensure that when a feedlot is exempted from the citizens petition process the public still has an opportunity to comment on potential environmental impacts of the feedlot proposal.

The new statute does not specify how these public meetings should be conducted. Presumably they are to be conducted following procedures typical of existing public meeting processes, such as public hearings held by county planning commissions on conditional use permit applications or regularly-scheduled board meetings. Alternative meeting procedures may also satisfy the requirement provided that all participants are afforded due process, the Open Meeting Law is complied with where applicable, and a meeting record is established. In setting the meeting procedures the following items should be considered:

- Notice of the meeting, including method(s), timing, recipients, and contents (time, date, place, subject, description of the feedlot proposal);
- Meeting procedures, including facilitator or chair, management of handout materials, and time limits (overall and on individual speakers);
- Record of meeting, including method of recording oral comments and collection of written submissions (including whether materials may be submitted after the meeting).

Policies for public meetings should be developed in consultation with legal counsel or other advisers.

The entity holding the public meeting should consider coordinating or combining notice of the public meeting with the notice required in subdivision 7a of Minnesota Statutes section 116.07. That statute requires a person who is planning to construct or expand a feedlot with a capacity of 500 animal units or more either to provide mail notification to all landowners within 5,000 feet of a feedlot or to put a notice in a newspaper of general circulation in the affected area at least 20 business days before the issuance of any permit.

Whatever process is used for the public meeting for citizen input, it is important to maintain a record of the comments made at the meeting, any written material handed out and any written materials received and to provide the record to the MPCA or county permitting staff, whichever will issue the feedlot permit, in a timely fashion after the meeting. The record should include enough detail so that the permittees can know what information was conveyed at the meeting. As the statute provides, the feedlot permit

cannot be issued for at least 10 business days after the public meeting was held in order for the project to be exempted.

**Questions/More Information**

Please address questions or requests for more information to Gregg Downing at the Environmental Quality Board at (651) 205-4660 or Randy Hukriede at the MPCA at (218) 828-6076, or visit the EQB website under Feedlot Environmental Review at: [www.eqb.state.mn.us/review.html](http://www.eqb.state.mn.us/review.html).